

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

U.S.A. vs. Gary Harston Ivey

Docket No. 7:99-CR-12-1F

Petition for Action on Supervised Release

COMES NOW Thomas E. Sheppard, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Gary Harston Ivey, who, upon an earlier plea of guilty to Assault and Robbery of Person Having Lawful Charge, Control, Custody of Mail Matter or any Money or Other Property of the U.S. in violation of 18 U.S.C. §2114(a), and Use of a Firearm During and in Relation to a Crime of Violence in violation of 18 U.S.C. §924(c), was sentenced by the Honorable James C. Fox, Senior U.S. District Judge, on April 19, 1999, to the custody of the Bureau of Prisons for a term of 126 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.

Gary Harston Ivey was released from custody on January 25, 2008, at which time the term of supervised release commenced.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On April 24, 2010, the defendant committed the offense of Assault Inflicting Serious Injury. This charge was reported to the court on June 18, 2010, and we continued supervision pending outcome of the case in state court. On June 30, 2010, court records show that the defendant was found guilty of the charge, a misdemeanor, and given a 60-day suspended sentence and 12 months unsupervised probation. He was also ordered to pay \$150.00 costs. As stated in the previous violation report, this incident was precipitated by the victim violating a restraining order and attacking the defendant, but turned into an assault at the point where the defendant had eliminated the threat and continued to beat the victim with a dumbbell. Taking into consideration all the circumstances surrounding the assault, and the fact that the defendant has otherwise been in compliance with his conditions for over two and a half years, we recommend the conditions of supervised release be modified to require the defendant to serve 3 days in the custody of the Bureau of Prisons. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall be confined in the custody of the Bureau of Prisons for a period of 3 days as arranged by the probation office, and shall abide by all rules and regulations of the designated facility.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,


I declare under penalty of perjury that the foregoing is true and correct.

/s/ Robert L. Thornton
Robert L. Thornton
Supervising U.S. Probation Officer

/s/ Thomas E. Sheppard
Thomas E. Sheppard
U.S. Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: (910) 483-8613
Executed On: September 7, 2010

ORDER OF COURT

Considered and ordered this 7th day of September, 2010, and ordered filed and made a part of the records in the above case.



James C. Fox
Senior U.S. District Judge